

Remarks


Claims 1-3, 7-8, and 30-31 are pending in the present application.

In response to the Restriction Requirement, Applicant respectfully elects claims 1-3, (as well as claims 7-8 amended herein to depend from claim 1, and new claim 30) drawn to a composition for treating osteoporosis where the effective ingredient is a water extract of an organic solvent extract of culture of *Cordyceps sinensis*. New claim 30 is similar to cancelled claim 22 in reciting that the composition comprises a water extract of an organic solvent extract product, where at least one organic solvent is diethyl ether.

Claims 21-26 are canceled herein. However, Applicant does not admit that the inclusion of these claims in Group II of the restriction requirement was proper. For example, similarly to claims 1-3, claims 22, 24 and 26 were all directed to compositions comprising a water extract of an organic solvent extract product of culture of *Cordyceps sinensis*. Thus, these claims should all have been included in Group I.

Added herein is new claim 31, which recites a composition for treating osteoporosis where the effective ingredient is a water extract of cultured mycelium of *Cordyceps sinensis* as an effective ingredient. Applicant respectfully submits that this claim is related to the other pending claims as all of the claims include water extracts of culture of *Cordyceps sinensis*. Additionally, the examination of new claim 31 would not impose any serious search or examination burden.

The Action indicates that even the previously restricted Groups (directed to water and organic solvent extracts) were classified in the same class and subclass 424/195.15. (For at least this reason, Applicant does not agree with the Examiner's assertions in the Action that the Groups have different classifications and would impose additional burden on the Examiner). It is believed that this same class/subclass that encompasses both of the indicated Groups, would likewise apply to new claim 31:

 **EXTRACT OR MATERIAL CONTAINING OR OBTAINED FROM A MULTICELLULAR FUNGUS AS ACTIVE**
195.15 INGREDIENT (E.G., MUSHROOM, FILAMENTOUS FUNGI, FUNGAL SPORES, HYPHAE, MYCELIUM, ETC.):
 This subclass is indented under the class definition. Subject matter wherein the active ingredient is a material or an extract obtained from a multicellular fungus.

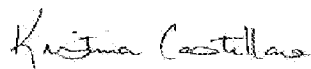
Additionally, similar search terms may be used for claim 31. Lastly, Applicant notes that in the previous restriction/election in this matter (before the RCE was filed), all water extracts were all included within the same election of species within the Group of "compositions for treating osteoporosis comprising *Cordyceps sinensis* or the processed product of *Cordyceps sinensis* as the effective ingredient." Thus, for at least these reasons, Applicant submits that new claim 31 should be examined with claims 1-3, 7-8 and 30.

Favorable consideration of all of the pending claims is respectfully requested.

Applicant hereby Petitions for a one month extension of time. If any additional extensions of time are necessary to prevent abandonment of this application, then extensions of time are hereby petitioned for under 37 C.F.R. §1.136(a). The USPTO is hereby authorized to charge any required fees, including fees for net addition of claims, to deposit account number 50-3120.

Should the Examiner believe that further discussion of any remaining issues would advance the prosecution, she is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,



Date August 15, 2007

By _____

Castellano PLLC

Customer Number: 43446

P.O. Box 1555

Great Falls, VA 22066

Telephone: (571) 278-8233

Facsimile: (202) 318-1288

Kristina M. Castellano
Registration No. 41,092